

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Marilyn D. Sanders,)	
)	C/A No. 2:10-0127-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Michael J. Astrue, Commissioner of)	
Social Security,)	
)	
Defendant.)	
_____)	

Plaintiff Marilyn D. Sanders filed the within action on January 19, 2010, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's claims for benefits under the Social Security Act. See 42 U.S.C. § 405(g).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Robert S. Carr for pretrial handling. On November 16, 2010, the Magistrate Judge filed a Report and Recommendation in which he found that the Administrative Law Judge (ALJ) did not properly evaluate Plaintiff's claim at the fourth step of the sequential evaluation. Specifically, the Magistrate Judge determined that the ALJ failed to make findings of fact as to the mental and physical requirements of Plaintiff's past relevant work. Accordingly, the Magistrate Judge recommended that Defendant's decision be reversed under sentence four of 42 U.S.C. §§ 405(g) and 1383(c)(3), and the case be remanded for further proceedings. Plaintiff filed no objections to the Report and Recommendation. On December 2, 2010, Defendant filed a notice that he would not file objections to the Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. For the reasons stated herein and in the Report and Recommendation, the Commissioner’s decision is reversed under sentence four of 42 U.S.C. §§ 405(g) and 1383(c)(3). The case is remanded to the Commissioner to properly evaluate under step four of the sequential evaluation process Plaintiff’s capacity to return to her past relevant work, to continue the sequential evaluation if necessary, and to provide a rationale which reflects a full evaluation of Plaintiff’s claims in accordance with the law, the regulations, and the applicable rulings.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

December 7, 2010